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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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NIXON PEABODY, LLP 401 9TH STREET, NW SUITE 900 WASHINGTON, DC 20004-2128			EXAMINER QUELER, ADAM M	
			ART UNIT 2178	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/026,156	Applicant(s) MARKEL, STEVEN O.	
	Examiner Adam M. Queler	Art Unit 2178	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,6-8 and 17-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,6-8 and 17-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to communications: Amendment filed 02/06/2007.
2. Claims 1-3, 6-8, and 17-26 are pending in the case. Claims 1, 17, and 19 are independent claims.
3. The rejections of claims 1-3, 6-8, 20, 21, and 23 under § 101 have been withdrawn in view of Applicant's amendment.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claim 1, 2 and 3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 2 and 3 recites several elements that do not make sense when taken as a whole. The preamble recites that the translator generates an XML file by doing the steps of the claim. However, these steps appear to be generating an HTML file and do not form a nexus with the preamble. The claims also recite that the steps are processed with the input data. Claim 3 recites this as well, specifying the XSL parser generates the HTML file from the input data. However, from the disclosure, and the state of the art, an XSL processor would create the HTML file from the XML file created in claim 1, not the input data directly. Otherwise the XML data would appear to have any use. Claim 2 recite creating an array that includes data as a wizard response. It is unclear what a "wizard response" entails (this feature is also in claim 1). Specifically, what is the intended effect that "as a wizard response" has on the storage and display of the prompt

and input data? Claim 2 recites creating a routine that displays the record. It is assumed that means substantially like "document.write(array)." Claim 2 then recites that a frameset structure identifies the placement of the record. A frameset structure substantially would only contain the address of the pages that are to be used as frames. It is not seen how the routine and frameset work together to achieve the same result. Claim 2 recites evoking the event handler, while "invoking" appears to be the correct term, either appears to refer to the actual event being called (i.e. clicking a button with invoke the onClick event). Claim 2 seems to be directed to the inclusion of the event handler within the HTML document, "invoking" is something that would be done by the browser when the file is viewed.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 1,2-3, 6-8, 22 and 24-25 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Gupta et al (US 20030196164A1, filed 9/15/1999), and further in view of Bayeh et al (US006012098A, filed 2/23/1998).**

Regarding independent claim(s) 1,22, 24, Gupta discloses a user interface and input box for identifying content (Fig. 8, 262). Gupta discloses a prompt and input box for entering a start time that content will be displayed (Fig. 8, 268). Gupta discloses a display device that displays a data signal and a video signal (Fig. 3), which inherently must be integrated. A monitor does not understand any of the content that it displays. All the monitor is told is what pixels to make what

color and where. As such the signal that is sent to a monitor is a signal with all the various logical content (such as data and video) to be displayed integrated into the display signal. This constitutes a basis in logical reasoning that Gupta inherently teaches an integrated signal, and that signals were integrated.

Gupta teaches that the content is stored in a database (para. 47). Gupta does not disclose storing the content as XML (a markup language). Bayeh teaches translating stored content into XML (col. 8, ll. 3-18). This includes extracting (retrieving) the stored data, and writing as XML, which inherently includes writing a header and footer (root, start and end tags), and open and close tags (col. 8, ll. 3-29). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Bayeh and Gupta, therefore translating the content into XML, in order to provide a standardized output (Bayeh, col. 8, ll. 19-22).

Regarding dependent claim(s) 2, as described above, the claims contain numerous issues that render the scope unclear. As such, for examining purposes only, the claim will be rejected under the same rationale as its parent claim

Regarding dependent claim(s) 3, Gupta does not teach generating an HTML file. Bayeh teaches an XSL parser to generate an HTML file (col. 9, ll. 5-8). It would have been obvious to one of ordinary skill in the art at the time of the invention to format the information as HTML because browsers expected to receive HTML (col. 2, ll. 52-53).

Regarding dependent claim(s) 6-8, Gupta does not expressly show the specific data claimed. However, these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The processing step would be performed the same regardless of the data. Thus, this descriptive material will not distinguish the claimed invention

Art Unit: 2178

from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to process any type of data because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

Regarding dependent claim(s) 25, Gupta and Bayeh teach the markup language is XML, as described in claim 24 above.

8. Claims 17-19, and 26 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Gupta, and further in view of Bayeh, and further in view of Logan (US 20030093790A1, priority date 3/28/2000).

Regarding independent claim(s) 17, 26, Gupta discloses a user interface (Fig. 8, 262). Gupta discloses a prompt and input box (graphical interface) for entering a start time and end time capable of selecting a particular frame (Gupta, para. 61). Gupta teaches that the content is stored in a database (para. 47). Gupta discloses a monitor that displays a data signal and a video signal (Fig. 3), which inherently must be integrated. A monitor does not understand any of the content that it displays. All the monitor is told is what pixels to make what color and where. As such the signal that is sent to a monitor is a signal with all the various logical content (such as data and video) to be displayed integrated into the display signal. Gupta does not disclose storing the content as XML. Bayeh teaches translating stored content into XML, a markup language (col. 8, ll. 3-18). Bayeh teaches a first XSL parser to generate a first HTML file (col. 9, ll. 5-8). It would have been obvious to one of ordinary skill in the art at the time of the invention to

combine Bayeh and Gupta, therefore translating the content, in order to provide a standardized output (Bayeh, col. 8, ll. 19-22). Gupta and Bayeh do not explicitly disclose a television program, but a general multimedia presentation (Gupta, para. 4). Logan discloses integrating the content into the television program (para. 80). Logan teaches an interface box (para. 300). It would have been obvious to one of ordinary skill in the art at the time of the invention to extend the general multimedia presentations of Gupta and Bayeh into the television program of Logan, thereby integrating the HTML code into the television program, in order to display more information about television program (Logan, para. 6).

Gupta, Bayeh and Logan do not specifically recite code segments, map segments and Q&A segments. Therefore, the differences in the claimed invention are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. All the steps of the function would be performed the same way regardless of the semantic meaning of the XML and HTML documents. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to parse, transfer and display any semantic content because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

Regarding dependent claim(s) 18, Gupta does not teach generating an HTML file. Bayeh teaches a second XSL processor for different presentation requirements, (col. 8, ll. 55-57), which would encompass a different device. It would have been obvious to one of ordinary skill in the

art at the time of the invention to format the information as HTML because browsers expected to receive HTML (Bayeh, col. 2, ll. 52-53).

Regarding independent claim(s) 19, Gupta entering content information with a graphical interface (Fig. 8, 262). Gupta teaches that the content is stored in a database (para. 47). Gupta discloses a monitor that displays a data signal and a video signal (Fig. 3), which inherently must be integrated. A monitor does not understand any of the content that it displays. All the monitor is told is what pixels to make what color and where. As such the signal that is sent to a monitor is a signal with all the various logical content (such as data and video) to be displayed integrated into the display signal. Gupta does not disclose storing the content as XML. Bayeh teaches translating stored content into XML (col. 8, ll. 3-18). Bayeh teaches a first XSL parser to generate a first HTML file (col. 9, ll. 5-8). Bayeh teaches a second XSL processor for different presentation requirements, (col. 8, ll. 55-57), which would encompass a different device. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Bayeh and Gupta, therefore translating the content, in order to provide a standardized output (Bayeh, col. 8, ll. 19-22). Gupta and Bayeh do not explicitly disclose a television program, but a general multimedia presentation (Gupta, para. 4). Logan discloses integrating the content into the television program (para. 80). It would have been obvious to one of ordinary skill in the art at the time of the invention to extend the general multimedia presentations of Gupta and Bayeh into the television program of Logan, thereby integrating the HTML code into the television program, in order to display more information about television program (Logan, para. 6).

Gupta, Bayeh and Logan do not specifically recite code segments, map segments and Q&A segments. Therefore, the differences in the claimed invention are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. All the steps of the function would be performed the same way regardless of the semantic meaning of the XML and HTML documents. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to parse, transfer and display any semantic content because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

9. Claims 20, 21, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gupta as applied to claim 1 above, and further in view of Applicant's Admitted Prior Art.

Regarding dependent claim(s) 20, Gupta does not explicitly disclose the webTV format.

Applicant admits that the WebTV format was one that must be considered, and was therefore was a desired format at the time of the invention (p. 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to use the WebTV format for that desired reason.

Regarding dependent claim(s) 20, Gupta does not explicitly disclose the AOLTV format.

Applicant admits that the AOLTV format was one that must be considered, and was therefore was a desired format at the time of the invention (p. 1). It would have been obvious to one of

Art Unit: 2178

ordinary skill in the art at the time of the invention to use the AOLTV format for that desired reason.

Regarding dependent claim(s) 23, Gupta does not explicitly disclose displaying a signal on two monitors. Official Notice is taken that it was well-known and common at the time of the invention to display a signal on two monitors. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to display the signal on a plurality of monitors to display the signal to two different people.

Response to Arguments

10. Applicant's arguments filed 2/6/2007 have been fully considered but they are not persuasive.

Regarding Applicant's remarks on Claim 1:

Applicant alleges that Gupta does not teach an integrated signal. However, Gupta discloses a monitor that displays a data signal and a video signal (Fig. 3), which inherently must be integrated. A monitor does not understand any of the content that it displays. All the monitor is told is what pixels to make what color and where. As such the signal that is sent to a monitor is a signal with all the various logical content (such as data and video) to be displayed integrated into the display signal. This constitutes a basis in logical reasoning that Gupta inherently teaches an integrated signal, and that signals were integrated. The burden shifts to the Applicant to refute that fact.

The rest of the Applicant's remarks address the various amendments to the claims. They have been addressed in the rejections above.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adam M. Queler whose telephone number is (571) 272-4140. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Hong can be reached on (571) 272-4124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

aq



STEPHEN HONG
SUPERVISORY PATENT EXAMINER